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From a decree dismissing the bill, complainant appeals. Reversed and remanded.

S. A. Anderson and *John B. Gayle,* both of Richmond, for appellant.

Geo. Mason, of Colonial Beach, for appellees.

COMMONWEALTH ex rel. NORFOLK-HAMPTON ROADS CO. *v.* BUSH BLUFF RY. CO.

March 12, 1914.

[81 S. E. 66.]

Quo Warranto (§ 49*)—Information—Demurrer.—An information in the nature of a writ of quo warranto to quash the charter of a railroad company alleged to have been obtained by fraud, charging that the corporation was organized on paper merely to obtain a railroad right of way over relator's property by condemnation, which the promoters of the corporation had failed to obtain by purchase, in order that they might exploit the sale of certain land having valuable riparian rights, etc., that respondent had no intention of building and operating a bona fide railroad for the use of the public, but only of complying with the forms of the law, and doing only so much as was necessary to enable it to take and hold the right of way desired, that the charter and organization were mere sham to enable the officers to use the state's power of eminent domain to promote the officers' private interests, etc., and that the obtaining of such charter amounted to fraud on the laws of the commonwealth, in consequence of which the respondent corporation became a de facto one only, and had never been a de jure corporation, etc., was not demurrable.

[Ed. Note.—For other cases, see Quo Warranto, Cent. Dig. §§ 49-52, 59, 60; Dec. Dig. § 49.* 11 Va.-W. Va. Enc. Dig. 527; 14 Va.-W. Va. Enc. Dig. 858.]

Error to Law and Chancery Court of City of Norfolk.

Information by the Commonwealth on relation of the Norfolk-Hampton Roads Company against the Bush Bluff Railway Company for the forfeiture of respondent's charter. From an order sustaining a demurrer and dismissing the information, relator brings error. Reversed and remanded.

H. H. Rumble, of Norfolk, for plaintiff in error.

W. H. Taylor, of Norfolk, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.